

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

In re: :
: :
KELI JO HARPER, : Case No: 15-32763
: Chapter 13
Debtor. : :
: :

OBJECTION TO CONFIRMATION

The creditor Arthur Mark Harper, by counsel, objects to confirmation of the amended Chapter 13 Plan dated June 29, 2015, pursuant to Bankruptcy Rule 3015(f) and 11 U.S.C. § 1325(a)(1), (3), (6), and (7), as follows:

1. This chapter 13 plan is underfunded and fails to pay all priority Domestic Support Obligations, as required by 11 U.S.C. §507(a)(1) and 11 U.S.C. §1325(a)(1). If this chapter 13 plan were fully funded as required by the Bankruptcy Code, the plan would not be feasible as required under 11 U.S.C. §1325(a)(6), based on the income and expenses portrayed by Debtor.

2. This chapter 13 plan has not been proposed in good faith and the action of the Debtor in filing the petition is not in good faith as follows:

a. Debtor has only three significant debts: the greatest being a nondischargeable Domestic Support Obligation owed to her ex-husband, and the others being dischargeable attorney's fees owed to her family law attorney and money owed to an internet loan vendor;

b. If Debtor's net disposable income is accurate as portrayed, Debtor appears to be eligible for a chapter 7 discharge and could afford to pay her nondischargeable Domestic Support Obligation after discharging her other debts; it

appears the primary purpose of her chapter 13 bankruptcy filing was an attempt to pay her attorney's fees to bankruptcy counsel at the expense of her Domestic Support Obligation to her ex-husband. From the Debtor's total proposed plan funding of \$12,325, nearly half will be applied to administrative costs, including attorney's fees, leaving little for her creditors;

c. On July 2, 2015, Debtor testified at the Section 341 Meeting of Creditors that she received a lump sum child support arrears of \$9,700 about two weeks earlier and had deposited it into a Wells Fargo account as a custodian for her minor child. On June 25, 2015, a week before the 341 meeting, Debtor filed Amended Schedules B and C in which she did misrepresented the lump sum as "Child Support Arrears", when in fact it was no longer in "arrears" upon her receipt. Debtor's Amended Schedule B failed to list the \$9,700 on line 2 as being in a checking or savings account. In addition, on June 25, 2015, Debtor filed an amended Chapter 13 plan which did not include any provision for payment of the \$9,700 to fund her plan.

d. On her Amended Official Form 22C-2, Debtor misrepresented the following expenses:

(i) Debtor listed her monthly taxes on line 16 as \$1,199.03, without deducting her \$500 a month tax refund received;

(ii) Debtor misrepresented a pre-tax dependent care FSA deduction in the amount of \$416.67 restricted to use for work-related dependent care costs as an allowed Health Insurance expense HSA or health savings account on line 25;

(iii) Debtor misrepresents monthly child support on line 40 as \$992.96, when she testified at the 341 meeting that it is actually \$1,122; and,

(iv) Debtor misrepresented a projected chapter 13 plan payment of \$275 on line 36, when in fact she simultaneously filed a plan with a \$205 payment.

e. Debtor portrays seemingly excessive payroll deductions of \$2,156 on monthly gross earned income of \$5,094.

f. Debtor has excessive and unreasonable monthly expenses on her Schedule J, including \$280 for telephone and internet, \$100 for entertainment and \$150 for “miscellaneous. When questioned by counsel at the Section 341 meeting of creditors, Debtor would not elaborate on the specific expenses included in the \$250 of entertainment and miscellaneous, which amount could be applied to the funding of her plan.

3. Debtor has shown a pattern of deceit and misrepresentation in her sworn pleadings, in amounts significant to the treatment of her creditors in her chapter 13 case, including the initial use of her net income instead of gross income for means testing, which made her appear eligible for a three year plan instead of a five year plan, the later misrepresentation of the lump sum child support as still in “arrears”, when in fact it had been received and was deposited in a bank account, and the misrepresentation of allowed expenses on her Official Form 22C-2, resulting in an erroneously negative DMI. Bankruptcy should provide a fresh start for an honest debtor, not a refuge for a deceitful one.

4. Arthur Mark Harper reserves the right to raise additional supporting grounds to his objection at the confirmation hearing.

WHEREFORE, Arthur Mark Harper prays this court sustain this objection to confirmation, deny confirmation of Debtor’s chapter 13 plan, and enter such other orders,

processes, or judgments that are necessary or appropriate to carry out the provisions of

Title 11.

ARTHUR MARK HARPER
By Counsel

Date: July 2, 2015

/s/James H. Wilson, Jr.
James H. Wilson, Jr.
Counsel for Plaintiff
VSB No: 27878
4860 Cox Road, Suite 200
Glen Allen, VA 23060
(804) 740-6464

PROOF OF SERVICE

I certify that I have this 2nd day of July, 2015, mailed or hand-delivered a true copy of the foregoing Motion on the parties listed on the attached service list.

/s/ James H. Wilson, Jr.
James H. Wilson, Jr., VSB No: 27878
Counsel for Plaintiff

Case 15-32763-KRH

Richmond, VA 23219-1888

Canton, OH 44721-2575

Eastern District of Virginia

Richmond

Thu Jul 2 12:39:55 EDT 2015

Chase Card Services

P.O. Box 15298

Wilmington, DE 19850-5298

ComenityCapital/IDLIMG

4590 E. Broad St

Columbus, OH 43213-1301

County of Henrico

Treasury Division

P.O. Box 90775

Henrico, VA 23273-0775

Dept of Ed/Navient

PO Box 9635

Wilkes Barre, PA 18773-9635

Fredericksburg Credit Bureau

Re:

10506 Wakeman Dr

Fredericksbрг, VA 22407-8040

Friedman Law Firm, PC

9620 Iron Bridge Road

Chesterfield, VA 23832-6459

Mark Harper

5196 Oakcliff St, SW

Canton, OH 44706-2035

Office of the US Trustee

701 E. Broad Street

Room 4304

Richmond, VA 23219-1885

(p)PROSPER FUNDING LLC

101 2ND STREET 15TH FLOOR

SAN FRANCISCO CA 94105-3672

US Attorney

600 East Main Street, Suite 1800

Richmond, VA 23219-2430

VHDA

Attn: Bankruptcy Dept.

601 S. Belvidere St.

Richmond, VA 23220-6504

VHDA

PO Box 4627

Richmond, VA 23220-8627

WF PLL

PO BOX 94435

Albuquerque, NM 87199-4435

Wells Fargo

P.O. Box 11701

Newark, NJ 07101-4701

Amanda Erin DeBerry

Boleman Law Firm, PC

P.O. Box 11588

Richmond, VA 23230-1588

Arthur Mark Harper

6751 Cantor Hill Circle

Canton, OH 44721-2575

Barry W. Spear

Boleman Law Firm, P.C.

Convergence Center III

272 Bendix Road

Suite 130

Virginia Beach, VA 23452-1380

Christina P. Spratley

Boleman Law Firm

PO Box 11588

Richmond, VA 23230-1588

Keli Jo Harper

1623 Hollandale Road

Henrico, VA 23238-5002

Suzanne E. Wade

P.O. Box 1780

Richmond, VA 23218-1780

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Prosper Marketplace

111 Sutter St

22nd Floor

San Francisco, CA 94104-0000

End of Label Matrix

Mailable recipients 22

Bypassed recipients 0

Total 22